

Application Serial No. 09/817,446
Amdt. Dated October 21, 2003
Reply to Office Action of July 21, 2003
Attorney Docket No. SAFTY-001BC

REMARKS/ARGUMENTS

Claims 1-7 and 67 were rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Specifically, the Examiner stated that the specification did not disclose any apparatus having a lid or closure that seals each of the filtrate receiving vessels and the cavity of the housing. In the interest of expediting allowance of some claims in this application, and in the hopes of eliminating any confusion, the language stating that the cover seals each filtrate vessel has been removed from claim 1. However, Applicants disagree with the Examiner's interpretation of the claim language and reserve the right to assert that the cover does seal the filtrate vessels, as well as the housing cavity, in a continuing application.

In view of the amendment to Claim 1, Applicants submit that the rejection under 35 U.S.C. 112, first paragraph, has been overcome.

Claims 1-7 and 67 were also rejected under 35 U.S.C. 102(b) as being anticipated by Clark et al.

In response to the rejection under 35 U.S.C. 102(b), claim 1 has been amended to essentially include the limitation of claim 7. More specifically, language has been added to recite that the membrane module has a portion formed of a first hard material and a portion formed of a second elastomeric material, wherein the elastomeric portions provide substantially air tight sealing with the rim of the surrounding sample port.

In response to the Applicants' arguments filed December 23, 2002, the Examiner posited that the membrane module of Clark et al. "does comprise an elastomer portion (ref. #30)." However, after carefully studying the Clark et al. patent, Applicants can locate no disclosure or suggestion of any elastomeric element that would interact with the rim of a sample port to effect sealing. Accordingly, amended Claim 1 is believed to be in condition for allowance. If the Examiner does not find amended Claim 1 to be in condition for allowance, it is respectfully requested that the Examiner cite by column and line the specific

Application Serial No. 09/817,446
Amdt. Dated October 21, 2003
Reply to Office Action of July 21, 2003
Attorney Docket No. SAFTY-001BC

portions of Clark et al. that are perceived to describe such an elastomeric element, thereby enabling Applicant to respond with specificity.

Entry of this amendment on an "after final" basis is in order because a) the amendment reduces the number of claims, b) the amendment reduces the number of issues that must be briefed on appeal, c) the amendment does not raise any new issues that would require further searching or consideration as the limitation added to claim 1 is substantially similar to the limitation previously recited in claim 7 and d) the amendment places the application in condition for allowance, or alternatively, into better condition for appeal. Accordingly, entry of the present amendment is respectfully requested.

The above amendments and remarks are believed sufficient to address all of the issues raised in the Office Action. The Examiner is encouraged to contact the undersigned by telephone if there is any further hindrance to allowance of the present application.

Respectfully submitted,

STOUT, UXA, BUYAN & MULLINS, LLP

Date: October 21, 2003

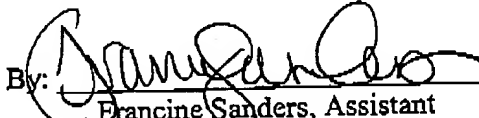


Robert D. Buyan, Reg. No. 32,460

4 Venture, Suite #300
Irvine, California 92618
Telephone: (949) 450-1750, Facsimile: (949) 450-1764
email: rbuyan@patlawyers.com

I hereby certify that this correspondence is transmitted by facsimile to (703) 872-9307 to BOX AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 21, 2003:

Dated: October 21, 2003.

By: 
Francine Sanders, Assistant

RECEIVED
CENTRAL FAX CENTER

OCT 22 2003

OFFICIAL